

00257

STATE OF MAINE
SAGADAHOC, SS.

SUPERIOR COURT
Civil Action Docket No. CV81-99

DEPOSITORS TRUST COMPANY,

Plaintiff

vs.

JEFFREY A. JOHNSON and
MILLICENT A. JOHNSON,

Defendants

and

HYDE SCHOOL,

Defendant/Party In Interest/
Cross-claim Plaintiff

and

CHARLES E. BURDEN and
WILLIAM G. WILKOFF,

Defendants/Parties In Interest

ORDER AND JUDGMENT OF
FORECLOSURE AND SALE

After notice to Plaintiff and all Defendants and Parties in Interest and hearing before me, and after review of the pleadings and Affidavits on file, the Court finds:

1. That there is no genuine issue as to any material fact involving complaint for foreclosure by Depositors Trust Company or the Cross-claim for Foreclosure by Hyde School against Defendants Jeffrey A. Johnson and Millicent A. Johnson and that Depositors Trust Company and Hyde School are entitled to judgment as a matter of law; that any right to future rents granted the Depositors Trust Company or Hyde School in their mortgages did not cause said mortgages to be subordinated to the leases of Defendants Charles E. Burden and William G. Wilkoff.

2. That Defendants Johnson are in default under the terms of certain promissory notes given to Depositors Trust Company and Hyde School and have received notice of said defaults;

3. That Depositors Trust Company is the holder of a first mortgage dated March 23, 1981 and recorded in the Sagadahoc

County Registry of Deeds in Book 569, Page 310 and is due under its said first mortgage a principal balance of \$59,750 and accrued interest through January 12, 1982 in the amount of \$8,240.23 with additional interest accruing on said principal balance from January 12, 1982, plus attorney's fees of \$500 and costs in this action; and

4. That Hyde School is owed the following under its mortgage:

- a. principal balance in the amount of \$49,875.04;
- b. accrued interest through January 12, 1982 in the amount of \$3,615.85;
- c. late charges in the amount of \$72.44;
- d. attorney's fees and disbursements made through October 31, 1981 in the amount of \$326.19; and
- e. additional interest accruing on said principal balance from January 12, 1982 at the rate of \$18.45 per day;

5. That the order of priority and the amount of the claims of the parties appearing are as follows:

- a. Depositors Trust Company; \$67,990.23 plus accrued interest from January 12, 1982 plus attorney's fees and costs in this action;
- b. Hyde School; \$53,889.52 plus accrued interest from January 12, 1982 at the rate of \$18.45 per day plus legal fees plus costs of this action; and
- c. Jeffrey A. Johnson and Millicent A. Johnson, the surplus remaining, if any.

WHEREFORE, it is hereby Ordered and Decreed that if Defendants, Jeffrey A. Johnson and Millicent A. Johnson, their heirs and assigns, do not pay Depositors Trust Company the amount due, together with accrued interest as set forth above, plus costs of this action, within ninety (90) days from the date hereof, Depositors Trust Company shall sell the real estate described in the mortgage deed recorded in the Sagadahoc County Registry of Deeds in Book 569, Page 310 pursuant to 14 M.R.S.A. §6321 et seq, free and clear of all liens, and disburse the proceeds of sale, after deducting the expenses thereof, in the priorities and amounts set forth in paragraph 5 above; provided, however, that if the Defendants do redeem their first mortgage to Depositors Trust Company within ninety (90) days after the date of the Judgment of Foreclosure and Sale granted to Depositors Trust Company, but do not pay Hyde School, then Hyde School thereafter shall hold a public foreclosure sale of the property mortgaged to Hyde School and Depositors Trust

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Company as above described, but if said Jeffrey and Millicent Johnson pay both Depositors Trust Company and Hyde School within the said 90 day period of redemption, then this suit shall be dismissed and the mortgages discharged.

An execution shall issue against Defendants Jeffrey A. Johnson and Millicent A. Johnson for any deficiency, provided that the Statutory requirements are met.

Dated: January 13, 1982

[Signature]
Justice, Superior Court

A Certified Copy.
Attest:

[Signature]
Deputy Clerk, Superior Court

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STATE OF MAINE
SAGadahOC, SS Registry of Deeds
RECEIVED FEB - 1 1982 9 H. 25 M. A. M.
AND RECORDED FROM THE ORIGINAL
ATTEST *[Signature]* W. Stevens
REGISTRAR